Remarks

Amendments

Claims 1-11 have been cancelled, in favor of new claims 22-32. New claim 22 clarifies that the method produces a blend mix output, and additionally clarifies certain terms of the claim. Claim 22 finds antecedent basis throughout the specification, particularly in original claim 1 and at page 1, lines 13-18; page 5, lines 14-20; page 6, lines 4-6, and page 15, lines 8-10. Claims 23-32 find antecedent basis in originally presented claims 2-11, respectively.

Claim 12 has been amended to specifically provide a method for producing a blend output for use by a manufacturer to blend component ingredients to form a blended product, wherein the final step of the method is to formulate a blend output based on the calculations described in the claim. Antecedent basis for this amendment is located throughout the specification, particularly at page 7, lines 10 and 11.

It is respectfully submitted that no new matter is introduced by these amendments.

Claim Objections

The claim objections have been obviated by cancellation of the objected to claims, and rewriting of these claims in proper form.

Claim Rejections – 35 USC 101

Claims 1-13 and 15-21 have been rejected under 35 USC 101 as being drawn to unpatentable subject matter, the Office Action stating that the present claims are drawn to "abstract ideas which can be performed mentally without interaction of a physical structure." In support of this analysis, the Office Action cites Ex parte Bowman, an unpublished opinion of the Board of Patent Appeals and Interferences.

It is respectfully submitted that the present claims are drawn to a process for carrying out ingredient selection for an end product that meets predetermined recipe requirements, and additionally optimizes ingredient usage based on evaluated elements of the ingredients. The present invention thus provides an actual output that is applied to a

technical art, i.e. a method of selecting ingredients from a supply and generating a blend mix output.

The process as presently claimed is distinguished from the mere evaluation as discussed in Ex parte Bowman. The Bowman claim described scoring performance criteria, summing the scores, and plotting the results on a chart. The result of Bowman was a mere correlation and presentation of data in a different format, without determination of any outcome and without application of an outcome to a technical art. The Bowman claim did not apply the evaluation to a technical art or environment, and therefore did not establish the steps as described therein to be useful to the technical arts. In contrast, the present process is applied to the art of product manufacture, and therefore satisfies the judicially interpreted statutory requirement of being more than an abstract idea, but rather being an invention that is tied to the specific technical art of product manufacture.

Claim Rejections – 35 USC 102

Claims 1-10 and 14 have been rejected under 35 USC 102(e) as being anticipated by Haeffner, et al.

The process as described in Haeffner does not relate to optimizing ingredient selection within a supply of ingredients that satisfy a recipe. Rather, Haeffner relates to a process for evaluation of an existing feedstuff to determine whether it needs supplementation, and whether the existing foodstuff can be economically enhanced to satisfy the desired nutritional profile as compared to the cost of existing competing feedstuff. Haeffner further does not provide a blend mix output, as required in the present claims as amended, and therefore does not anticipate the present claims.

Claim 14 is drawn to a system for controlling grain mixing, and describes specific elements related to generating a blend mix output that specifies the amount of each of plural grain lots to mix in order to achieve said desired mix. Haeffner describes augmenting existing feedstuffs, such as corn or soyabean meal, with supplements, such as oil. Haeffner does not even mention the term "grain." It is respectfully submitted that Haeffner does not anticipate claim 14.

Claim Rejections – 35 USC 103

Claims 11-13 and 15-21 have been rejected under 35 USC 103(a) as being unpatentable over Haeffner, et al in view of Sibley, Jr.

As noted in the Office Action, Sibley teaches a method and system for international commodity trade exchange, wherein wheat prices are monitored in real time. This reference, however, does not cure the lack of teaching in the Haeffner reference. The references do not teach or suggest a process for carrying out ingredient selection for providing a blend mix output to provide a food product that meets predetermined functional and nutritional requirements, and additionally optimizing ingredient usage based on evaluated elements of the ingredients.

Many claims are dismissed as presenting "non-functional language," arguing that the process as presently claimed differs from the cited prior art only with respect to the noted descriptive material that does not alter how the process steps are performed. As noted above, the present process is fundamentally different from that disclosed in either Haeffner or Sibley. Further, it is respectfully submitted that in the context of the present invention, the identification of the element to be calculated for purposes of optimization does affect the nature of the process itself, and therefore must have patentable weight.

CONCLUSION

In view of the amendments and remarks provided herein, Applicants believe that all of the pending claims are in condition for allowance, and respectfully request notification thereof. In the event that a phone conference between the Examiner and the Applicants' undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the attorney at (651) 275-9811.

Respectfully Submitted,

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By: _____

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